

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant:	) I hereby certify that this paper is being
	) electronically deposited with the United States
<b>Frank Tuccio</b>	) Patent and Trademark Office on this date:
	)
Serial No.: 10/659,514	) <b>October 25, 2007</b>
	)
For: "Remote Sensing System"	) <u>/Mark C. Zimmerman/</u>
	)
Filed: September 10, 2003	) Mark C. Zimmerman
	) Registration No.: 44,006
Group Art Unit: 2617	) Attorney for Applicant
	)
Examiner: MEHRPOUR,	)
Naghmeh	)

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Commissioner for Patents  
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**REASONING ACCOMPANYING A PRE-APPEAL BRIEF REQUEST FOR REVIEW**

The applicant files herewith a Notice of Appeal and respectfully requests review of this case prior to filing an appeal brief. As addressed below, the rejections on the record omit essential elements required for a *prima facie* rejection based on anticipation. Thus, the applicant respectfully requests allowance of the claims or the reopening of prosecution, as the review panel sees fit.

Section 1 of the Final Office action (dated May 11, 2007) maintains the prior contention that independent claims 1, 6, and 7 are anticipated by Ovard et al. (U.S. Publication No. 2002/0090958 A1 – hereinafter "Ovard"). As explained in a response to the Final Office action, and as reiterated below, Ovard omits claim elements recited in claims 1, 6, and 7 and, as a result, cannot anticipate claims 1, 6, and 7.

Independent claims 1, 6, and 7 recite, *inter alia*, each of a fixed receiver, a means for detecting an audio signal, or monitoring a designated region for the presence of an audio signal; determining an identity of the audio signal detected; and associating the identity of the transponder with the identity of the audio signal detected or correlating the transponder and the identity of the audio signal. However, as described below, Ovard fails to describe or suggest a fixed receiver, a means for detecting an audio signal, or monitoring a designated region for the presence of an audio signal; determining an identity of the audio signal

detected; and associating the identity of the transponder with the identity of the audio signal detected or correlating the transponder and the identity of the audio signal, as recited in claims 1, 6, and 7. Because Ovard is missing at least three elements of the claims at issue, Ovard cannot anticipate claims 1, 6, and 7 or dependent claims thereof.

Ovard describes a wireless communication system including an interrogator and one or more remote communication devices, such as radio frequency identification (RFID) devices. Ovard, ¶0024-0026, FIG. 1. The remote communication devices and the interrogator of Ovard interface with each other via an electromagnetic link, such as a radio frequency link, and the communication devices are responsive to forward link communications from the interrogator. Id., ¶0028, 0029, 0032. Encoded information transmitted from the communication devices allow for unique identification of particular communication devices located within a communication range. Id., ¶0041-0043, FIGS. 2 and 3.

While Ovard describes a transponder with an output having a particular identification signal associated with the transmission, such identification is not associated with an identity of an audio signal, much less detecting *any* audio signal. In fact, as described in detail below, a careful study of Ovard illustrates that Ovard is completely devoid of any audio signal, much less a fixed receiver, a means for detecting an audio signal, or monitoring a designated region for the presence of an audio signal, each of which is recited in claims 1, 6, and 7. To that end, because Ovard fails to describe or suggest any audio signal, Ovard necessarily fails to determine an identity of the audio signal detected, and associate the identity of the transponder with the identity of the audio signal detected, as recited in claims 1, 6, and 7.

In the Advisory Action (dated September 25, 2007), the examiner appears to proffer new arguments and rely upon FIG. 10 of Ovard to teach determining an identity of the audio signal detected, and associating the identity of the transponder with the identity of the audio signal detected. In particular, the examiner appears to assert that the adjustment circuitry 96 having automatic gain control (AGC) circuitry and a variable gain amplifier 150, as shown in FIG. 10, is sufficient to teach an audio signal (see page 4 of the Advisory Action). A careful review of FIG. 10 and the associated language of Ovard related to FIG. 10 illustrates that, unlike determining an identity of an audio signal and associating the identity of a transponder with the identity of the audio signal detected, the adjustment circuitry 96 and AGC circuitry of Ovard is configured to monitor the power of return link communication signals, and compare the power with a threshold value. Ovard, FIG. 10, ¶0097, 0098. Additionally,

rather than describe or suggest any concept of audio, Ovard describes that the variable gain amplifier 150 adjusts the power level of return link communication signals, which are electromagnetic signals, not audio signals. *Id.*, ¶0098, 0099. Thus, as explained earlier, Ovard is completely devoid of an audio signal thereby rendering Ovard insufficient for purposes of anticipation.

The applicant asserts that, but for a single parenthetical term “audio” added by the examiner on page 4 of the Advisory Action, cited passages of Ovard proffered by the examiner support the applicant’s assertion that Ovard fails to describe or suggest any audio component, much less describe or suggest determining an identity of the audio signal detected. Additionally, because Ovard fails to describe or suggest determining an identity of the audio signal detected, Ovard necessarily fails to describe or suggest associating the identity of a transponder with the identity of the audio signal detected, as recited in claims 1, 6, and 7.

Thus, for at least these reasons, Ovard does not, and can not anticipate claims 1, 6, and 7. The applicant respectfully requests that the rejection of claims 1, 6, and 7 be withdrawn.

In light of the foregoing, reconsideration of the application and allowance thereof are respectfully requested. If there is any matter that the examiner would like to discuss, the examiner is invited to contact the undersigned representative at the telephone number set forth below.

Respectfully submitted,  
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**October 25, 2007**

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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

The applicant requests review of the final rejection in the above-identified application.  
No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reasons stated on the attached sheets. No more than five (5) pages are provided.

I am the attorney of record.

Respectfully submitted,  
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